

## **ESTOPPEL AND CONSENT TO ASSIGNMENT OF LEASE AND OPTION**

The COUNTY OF LOS ANGELES ("County"), lessor under that certain Lease No. 4985, dated October 4, 1961, as amended by amendments numbered 1 through 12 (hereinafter the "Lease"), and party to that certain Option To Amend Lease Agreement (Parcel 8T) dated as of December 8, 2009 (hereinafter the "Initial Option"), as supplemented by a letter (the "Letter Extension") dated September 21, 2010 extending the Option Term (as that term is defined in the Option, as herein defined) through June 8, 2011, and as further supplemented by that certain Renewal of Option to Amend Lease Agreement dated as of October 18, 2011 (hereinafter the "Renewal Option"), further extending the Option Term through December 8, 2012 (the Initial Option, the Letter Extension and the Renewal Option are sometimes hereinafter collectively referred to as the "Option"), applicable to those certain premises commonly known as Parcel 8T, Marina del Rey Small Craft Harbor, described in Exhibit A attached hereto and incorporated herein by this reference, does hereby consent to the assignment of said Lease and said Option by the present lessee, NF MARINA LP, a California limited partnership (collectively "NF MARINA") to ARCHSTONE MARINA BAY NOMINEE LP, a Delaware limited partnership ("ARCHSTONE"), in accordance with that certain Assignment and Assumption of Ground Lease and Option executed and delivered concurrently herewith ("Assignment").

County further agrees that upon the effective date of said Assignment, NF MARINA shall be fully relieved of, and released from, any and all obligations to County under the Lease accruing on or after the effective date of said Assignment. It is further understood and agreed that the County's consent to the Assignment is subject to the following express conditions:

A. This Estoppel and Consent to Assignment of Lease and Option ("Estoppel and Consent") shall be null and void and of no further force or effect, until and unless the Assignment is complete and irrevocable in all respects on or prior to September 15, 2012.

B. This Estoppel and Consent is contingent upon ARCHSTONE'S assumption and agreement to perform all obligations created by the terms, covenants and conditions of said Lease and Option on the part of the lessee therein named to be performed from and after the date of the Assignment, as set forth in the Assignment.

C. The Assignment, having once become complete and irrevocable in all respects, shall thereafter be fully binding upon ARCHSTONE whether or not NF MARINA and ARCHSTONE have entered into a separate agreement or understanding to which the County is not a party and which provides for or otherwise purports to affect the Assignment, and whether or not in such event any party thereto alleges, claims or otherwise shows or proves that there has been a breach, default, violation, or termination of any such separate agreement.

D. ARCHSTONE shall not make any further assignment or sublease of the Lease or Option, nor any portion thereof, without the written consent of County as lessor having first been obtained thereto in accordance with, and to the extent required by, the provisions of the Lease or the Option. As a condition to ARCHSTONE entering into the Assignment, and with knowledge that NF MARINA and ARCHSTONE are relying hereon, County hereby represents and warrants to ARCHSTONE and the Reliance Parties (as defined below) the following effective as of the date of this Estoppel and Consent and immediately prior to the execution and delivery of the

Amended and Restated Lease Agreement being executed and delivered by ARCHSTONE and County immediately following the Assignment:

1. A true and complete list of the documents comprising the Lease, the Option, and all amendments, supplements, and other modifications thereto of every nature is attached hereto as Exhibit B. The documents described in Exhibit B represent the entire agreement between the parties as to the Lease, the Option, and the premises leased thereunder, and except as set forth above, the Lease and Option have not otherwise been modified, supplemented or amended in any way.
2. The Lease and Option are in full force and effect and County has not assigned its interests therein, either in whole or in part.
3. The Lease term commenced on June 8, 1961 and was scheduled to expire on June 7, 2021. The scheduled expiration date of the Lease term will be extended to June 7, 2051 in accordance with the terms of the Amended and Restated Lease Agreement being executed and delivered by ARCHSTONE and County immediately following the Assignment.
4. To the best knowledge of County, there are no existing defaults under the Lease with respect to any monetary (subject to County's audit right described in the Lease for periods following October 31, 2008), or non-monetary provision of the Lease and no event has occurred which, with the passage of time or giving of notice, or both, would constitute a default with respect to any non-monetary provision of the Lease.
5. Rents and other charges have been fully paid under the Lease through October 31, 2008, as verified by formal audit. Monthly payments of annual square foot rental in the amount of \$54,068.27, as required under Article 4 of Amendment No. 12 of the Lease, have been fully made for all months up through and including August, 2012. Monthly payments of percentage rent, to the extent required under Article 4 of Amendment No. 12 of the Lease have been paid for all months through and including August, 2012 (for July, 2012 gross receipts), but are subject to audit for periods from and after November 1, 2008. In the event any such audit reveals rental deficiencies, NF MARINA, ARCHSTONE and any then-current or future lessee shall be jointly and severally liable for all unpaid deficiencies accruing during the period from and after November 1, 2008, except that the liability of NF MARINA for such unpaid deficiencies shall be limited to deficiencies pertaining to periods prior to the effective date of the Assignment. No representation is made herein by the County as to the current status of NF MARINA's payments of possessory interest taxes or any other taxes, assessments or similar service charges which may be due by NF MARINA to the County or other governmental or regulatory body in connection with the premises or improvements under the Lease.
6. A security deposit under the Lease in the amount of \$135,963.00 in the form of a certificate of deposit is currently being held by the County, and will be released to NF Marina upon delivery by Archstone of a new security deposit in the amount of \$162,204.81.
7. All requirements for the exercise of the Option have been satisfied.

8. The Option Fee set forth in Section 4 of the Initial Option and the Option Extension Fee set forth in Section 4 of the Renewal Option have been paid in full.
9. All amounts payable under Section 6 of the Renewal Option, including, without limitation, the Administrative Charge and Net Proceeds Share, have been paid in full.

This Estoppel and Consent to Assignment of Lease and Option may be relied upon by Chicago Title Insurance Company, NF MARINA, ARCHSTONE and any lender that issues a loan approved by County that is secured by the leasehold interest under the Lease to finance ARCHSTONE'S acquisition of such leasehold and to finance the "Redevelopment Work" contemplated by the Amended and Restated Lease Agreement attached to the Option as Exhibit A (the "Reliance Parties").

[REMAINDER OF PAGE BLANK]

IN WITNESS WHEREOF, County has executed this Estoppel and Consent to Assignment of Lease and Option as of the date set forth below.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2012

COUNTY OF LOS ANGELES

By: *[Signature]*  
County of Los Angeles

ATTEST:

SACHI A. HAMAI, Executive Officer  
of the Board of Supervisors

By: *Lachelle Smitherman*  
Deputy  
AUG 29 2012



I hereby certify that pursuant to  
Section 25103 of the Government Code,  
delivery of this document has been made.

SACHI A. HAMAI  
Executive Officer  
Clerk of the Board of Supervisors

*Lachelle Smitherman*  
Deputy

APPROVED AS TO FORM:

JOHN F. KRATTLI,  
County Counsel

By: *[Signature]*  
Deputy

**ADOPTED**  
BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

**20**

**AUG 14 2012**

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: *[Signature]*

*Sachi A. Hamai*  
SACHI A. HAMAI  
EXECUTIVE OFFICER

## **EXHIBIT A**

### **DESCRIPTION OF PREMISES**

Parcels 63 to 91 inclusive, in the County of Los Angeles, State of California, as shown on Los Angeles County Assessor's Map No. 88, filed in Book 1, pages 53 to 70 inclusive, of Assessor's Maps, in the office of the Recorder of said County, and the easterly 24.81 feet of Parcel 92, in said County, as shown on said map.

Together with a right of way for access purposes to be used in common with others over the northerly 10 feet of the westerly 32 feet of the easterly 56.81 feet of said Parcel 92.

Reserving and excepting unto said County a right of way for sanitary sewer purposes in and across that portion of above described parcel of land which lies within the westerly 10 feet of the easterly 24.81 feet of said Parcel 92.

Also reserving and excepting unto the County of Los Angeles rights of way for sanitary sewer, storm drain, fire access and harbor utility purposes in and across those portions thereof designated on said map as easements to be reserved by said County for such purposes.

## **EXHIBIT B**

### **LEASE AND OPTION DOCUMENTS**

1. Lease dated October 4, 1961, as amended and restated by Amendment No. 6 to Lease No. 4985 dated November 7, 1963
2. Amendment No. 7 to Lease No. 4985 dated November 20, 1974
3. Amendment No. 8 to Lease No. 4985 dated August 5, 1975
4. Amendment No. 9 to Lease No. 4985 dated September 27, 1977
5. Amendment No. 10 to Lease No. 4985 dated June 6, 1989
6. Amendment No. 11 to Lease No. 4985 dated September 17, 1996
7. Amendment No. 12 to Lease No. 4985 dated June 27, 2001
8. Option to Amend Lease Agreement (Parcel 8T) dated December 8, 2009
9. Renewal of Option to Amend Lease Agreement (Parcel 8T) dated October 18, 2011